



Docket No.: 203744US6

DAC 2659. 7/1
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7-27-04
P2

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 09/585,870

Applicants: Tetsuo MAEDA

Filing Date: June 1, 2000

For: DISC DRIVE AND OPTICAL DISC DRIVE

Group Art Unit: 2652

Examiner: DAVIS, D.

SIR:

Attached hereto for filing are the following papers:

ATTORNEY DECLARATION

COPY OF NOTICE OF ABANDONMENT DATED MAY 6, 2004

REQUEST FOR WITHDRAWAL OF HOLDING OF ABANDONMENT

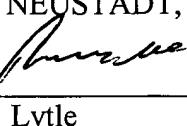
COPY OF DATED-STAMPED FILING RECEIPT DATED OCTOBER 24, 2003

COPY OF PTO-COVER LETTER

COPY OF RESPONSE TO RESTRICTION REQUIREMENT

Our check in the amount of **\$0.00** is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.


Customer Number

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Bradley D. Lytle

Registration No. 40,073

(703) 413-3000 (phone)
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203744US6



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:

: ATTN:

Tetsuo MAEDA

: EXAMINER: DAVIS, D.

SERIAL NO.: 09/585,870

: GROUP ART UNIT: 2652

FILED: JUNE 1, 2000

TITLE: DISC DRIVE AND OPTICAL DISC DRIVE

ATTORNEY DECLARATION

RECEIVED

COMMISSIONER FOR PATENTS
Alexandria, VA. 22313-1450

JUL 12 2004

Technology Center 2600

Sir:

I, Bradley D. Lytle, attorney of record in the above-identified application, declare the attached to be a true and accurate copy of material to and from the Patent Office from our file including a copy of PTO Communication letter dated May 6, 2004.

The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 7/6/04


Bradley D. Lytle
Registration No. 40,073
Attorney of Record

Customer Number

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(703) 413-3000 Phone

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BDL/dgh

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,870	06/01/2000	Tetsuo Maeda	SONY-10618 203744US6	4714
22850	7590	05/06/2004		EXAMINER
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			DAVIS, DAVID DONALD	
ART UNIT	PAPER NUMBER			
2652	15			
DATE MAILED: 05/06/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

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RECEIVED: 5-10-04
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.

DOCKETING DEPT.

Initials/Date Docketed: CDX 15-10-04

Type of Resp(s): Pet to w/o AB and

Due Date(s): 7-6-04



Notice of Abandonment	Application No.	Applicant(s)	
	09/585,870	MAEDA, TETSUO	
	Examiner	Art Unit	
	David D. Davis	2652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. Applicant's failure to timely file a proper reply to the Office letter mailed on 24 September 2003.
 - (a) A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) No reply has been received.

2. Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) The issue fee and publication fee, if applicable, has not been received.

3. Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) No corrected drawings have been received.

4. The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. The reason(s) below:

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David D. Davis
Primary Examiner
Art Unit: 2652

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

203744US6



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Tetsuo MAEDA : EXAMINER: DAVIS, D.

SERIAL NO: 09/585,870 : GROUP ART UNIT: 2652

FILED: JUNE 1, 2000 :

TITLE: DISC DRIVE AND OPTICAL DISC DRIVE

REQUEST FOR WITHDRAWAL OF HOLDING OF ABANDONMENT

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COMMISSIONER FOR PATENTS
Alexandria, VA. 22313-1450

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Sir:

Responsive to the Notice of Abandonment dated May 6, 2004, Applicant herewith request withdrawal of said abandonment for the following reasons.

An Office Action was mailed by the Examiner on September 24, 2003, with a shortened statutory period of 1 month, to expire on October 24, 2003.

Attached hereto is a copy of the date-stamped filing receipt evidencing filing of a Response to the September 24, 2003 Office Action. A Restriction Requirement was filed in Response on October 24, 2003 to the September 24, 2003 Office Action. Also attached hereto is a copy of the Notice of Abandonment dated May 6, 2004. In order to expedite prosecution, submitted herewith is a resigned certified copy of the documents indicated filed on October 24, 2003.

Application No.: 09/585,870
Inventor: Tetsuo MAEDA
Request for Withdrawal of Holding of Abandonment
Page 2

It is believed that the above discussion and documents resubmitted herewith clearly prove that the timely response to the Office Action was filed and therefore, the holding of abandonment was issued in error.

Accordingly, it is requested the holding of abandonment be withdrawn and that prosecution be allowed to continue in the present application.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.


Bradley D. Lytle

Registration No. 40,073

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- ✓ O FMM&N File No. 203744US6
✓ Serial No. 09/585,870
✓ In the matter of the Application of: Tetsuo MAEDA
✓ For: DISC DRIVE AND OPTICAL DISC DRIVE

Dept.: E/M
By: BDL/PH/me

Due Date: October 24, 2003

The following has been received in the U.S. Patent Office on the date stamped hereon:

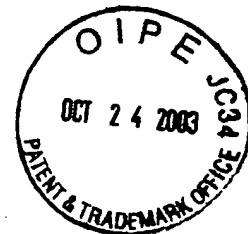
- Dep. Acct. Order Form
 Cover Letter
 Response to Restriction Requirement

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Docket No.: 203744US6

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313



RE: Application Serial No.: 09/585,870

Applicants: Tetsuo MAEDA

Filing Date: June 1, 2000

For: DISC DRIVE AND OPTICAL DISC DRIVE

Group Art Unit: 2652

Examiner: DAVIS, D.

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Technology Center 2600

SIR:

Attached hereto for filing are the following papers:

RESPONSE TO RESTRICTION REQUIREMENT

Our check in the amount of _____ is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
[Signature]

Bradley D. Lytle
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Customer Number

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203744US6



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:

Tetsuo MAEDA : EXAMINER: DAVIS, D.

SERIAL NO: 09/585,870 :

FILED: June 1, 2000 : GROUP ART UNIT: 2652

FOR: DISC DRIVE AND OPTICAL DISC DRIVE

RESPONSE TO RESTRICTION REQUIREMENT

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COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

JUL 12 2004

SIR:

Technology Center 2600

In response to the Office Action dated September 24, 2003, Applicants elect with traverse Species I, examples of which are illustrated in Figures 6 and 7. Accordingly, Applicants identify Claims 1-26 as readable on the provisionally elected species.

Applicants respectfully traverse the outstanding requirement for several reasons.

First, the outstanding Office Action merely includes the conclusory statement that “[t]his application contains claims directed to the following patentably distinct species” without stating any basis whatsoever in support of such a finding. This is in violation of MPEP § 816, which states:

The particular reasons relied on by the examiner for holding the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given.

Application No: 09/585,870
Reply to Office Action of September 24, 2003

In the absence of any annunciated basis, it is respectfully submitted that the PTO clearly has not carried forward its burden of proof to establish distinctness.

Secondly, MPEP § 806.04(f) requires:

Claims to be restricted to different species must be mutually exclusive.

The outstanding Official Action fails to address in any way whether the pending claims recite mutually exclusive characteristics and this failure provides a further basis for traversing the election of species requirement.

Finally, MPEP § 803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The claims of the present invention would appear to be part of an overlapping search area. Further, Applicants respectfully assert that the Examiner has presumably already conducted multiple searches on both of the identified species. Accordingly, Applicants also respectfully traverse the outstanding requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

Therefore, it is respectfully requested that the requirement to elect a single species be withdrawn, and that a full examination on the merits of Claims 1-26 be conducted.

Further, for the reasons discussed in Applicants' Request for Reconsideration filed on July 9, 2003, Claims 1-26 are allowable over the applied references. Consequently, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. A Notice of Allowance for Claims 1-26 is earnestly solicited.

Application No: 09/585,870
Reply to Office Action of September 24, 2003

Should the Examiner deem that any further action is necessary to place the application in even better form for allowance, the Examiner is encouraged to contact the undersigned representative at the below listed telephone number.

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Registration No. 40,073
Attorney of Record

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